

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
NO. 5:05-CR-203-H

UNITED STATES OF AMERICA)
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 v.)
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 YANCY MUSGRAVE,)
)
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 Defendant.)
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This matter is before the court on defendant's motion for return of property. The government has responded, and this matter is ripe for adjudication.

In his motion, defendant claims that on January 5, 2004 a federal agent seized \$5,215.00 of United States currency while arresting him on a charge of felony possession of a firearm by a convicted felon. Defendant contends that there was no evidence that the money represented drug proceeds.

After a careful review of the records in this matter, the court finds that the available records in this case do not show the federal authorities having possession of the cash found with the defendant. A review of the docket report does not indicate a forfeiture application.

In addition, it is more than likely that the cash was retained by the local authorities who made the arrest and became the subject of a state forfeiture action pursuant to the North Carolina taxing authority. The defendant's effort to enforce his rights under Rule 41(g) comes some 8 years after his arrest and the apparent seizure of the cash. His assertion now that the money was not the result of drug dealing is at odds with his Mirandized statement on the date of his arrest.

Accordingly, the government has no property that can be lawfully returned to the defendant. Therefore, defendant's motion for return of property [DE #36 and #37] is DENIED.

This 11th day of October 2013.



Malcolm J. Howard
Senior United States District Judge

At Greenville, NC
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